

### REMARKS

Claims 1, 3-7, 9, 12, and 13 are currently pending in the application. By this Amendment, claims 12 and 13 are added for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the original disclosure. For example, support for the amendments is provided in Figure 1. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

#### ***35 U.S.C. §102 Rejection***

Claims 1, 3-7 and 9 were rejected under 35 U.S.C. §102(b) for being anticipated by WO 01/75247 to Palsson. This rejection is respectfully traversed.

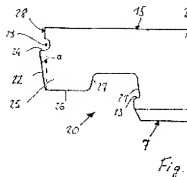
To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. See MPEP §2131. Applicants submit, though, that Palsson does not show each and every feature of the claimed invention.

#### **Independent Claim 1**

Claim 1 recites, in pertinent part,

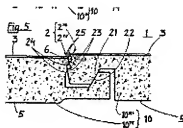
... form-fitting elements for locking in the vertical direction (V) with a further panel formed on a second side edge running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls.

These features are clearly shown in FIG. 1, which is a non-limiting embodiment of the present invention. For example, the form fitting elements are shown at reference numerals 23 and 24, which are clearly spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls. FIG. 1 is reproduced below.



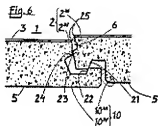
However, these features are not shown by Palsson.

In contrast, it is clear from a reading of Palsson that the flooring panel of any of the figures show form-fitting elements for locking in the vertical direction (V) with a further panel formed on a second side edge running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls. As shown in FIG. 5, for example, there is only elements 23 which are spaced apart in the vertical direction on the tongue. These elements are not spaced apart in the transverse direction, as recited in the claimed invention. This is clearly shown in the figure reproduced below.



In fact, from a fair reading of Palsson, it appears that the male vertical assembly joining member 10''' has a flat surface which cannot and is not designed to lock the panels in a vertical direction (V), as recited in the claimed invention.

Similarly, with respect to FIG. 6, the male vertical assembly joining member 10''' has a flat surface which cannot and is not designed to lock the panels in a vertical direction (V), as recited in the claimed invention. Also, in FIG. 6, there is only a single element 24 on the tongue, as shown below.



#### Independent Claim 5

Claim 5 recites, in part:

... wherein the form-fitting elements are spaced apart from one another in the vertical direction and the transverse direction

.... the first step-like milled relief includes an essentially horizontal head surface with a channel formed therein.

The Examiner is of the opinion that Palsson discloses these features, for example, in Figure 5. More specifically, the Examiner is of the opinion that Palsson shows

... wherein one of said form-fitting elements (21) is formed on the inner wall and another said form-fitting element (23) is formed on the outer wall, and the first step-like milled relief includes an essentially horizontal head surface with a channel formed therein (where the underside of the step-like relief is generally horizontal and the channel is between 21 and the main body of the panel as seen in figure 5).

Applicants do not agree with the Examiner's characterization of Palsson.

First, as discussed in detail above, Palsson does not show form fitting elements, as recited in the claimed invention. Simple, there is no disclosure or suggestion in Palsson, whatsoever, that there are the form-fitting elements which are spaced apart from one another in the vertical direction and the transverse direction

Second, the features argued by the Examiner are not a first step-like milled relief starting from the underside and having an essentially vertical inner wall and an essentially vertical outer wall, wherein first step-like milled relief includes an essentially horizontal head surface with a channel formed therein. In contrast, the features of Palsson, as argued by the Examiner, are hooks 23 and matching under cuts 24. Applicants submit that the "horizontal head surface" of Palsson is the upper, horizontal female surface of the vertical assembly joining member 10". This vertical assembly joining member 10, however, does not include a channel formed therein. In fact, the "horizontal head surface" is flat.

More specifically, as shown in figure 5, Palsson shows a third and a fourth edge of a floor element 1. The floor elements 1 are provided with a male vertical assembly joining member 10"" on a third edge while a fourth edge 2"" is provided with a female vertical assembly joining member 10". However, as clearly seen in figure 5, the female vertical assembly joining member 10" only shows a flat, horizontal surface. The flat, horizontal surface does not include a channel. The male vertical assembly joining members 10"" are provided with mainly vertical lower cheek

surfaces 21 arranged parallel to the closest edge 2. The lower cheek surfaces 21 are intended to interact with mainly vertical upper cheek surfaces 22 arranged on the female vertical assembly joining members 10''' so that two joined adjacent floor elements 1 are locked against each other in a horizontal direction. The male vertical assembly joining members 10''' are also provided with two snapping hooks 23; while the female vertical assembly joining members 10''' are provided with matching under cuts 24, which by being provided with mainly horizontal locking surfaces limits the vertical movement between two joined adjacent floor elements 1.

The joint between the two joined floor elements 1 further comprises contact surfaces which are constituted by the horizontal locking surfaces of the under cuts 23 and hooks 24. However, these contact surfaces which are constituted by the horizontal locking surfaces of the under cuts 23 and hooks 24 are not a first step-like milled relief, as recited in the claimed invention. Additionally, the surfaces of the under cuts 23 and hooks 24 are not a head surface, as recited in the claimed invention. More specifically, the neither the under cuts 23 and hooks 24 are step-like milled relieves starting from the underside and having an essentially vertical inner wall and an essentially vertical outer wall. In fact, the under cuts 23 and hooks 24 would only have a single wall.

#### Dependent Claims

Applicants submit that claims 3, 4, 6, 7 and 9 depend from allowable base claims, and are allowable at least for the reasons discussed above. Moreover, Applicants submit that Palsson does not disclose many of the features of the dependent claims. For example, Palsson does not disclose a channel formed in an essentially horizontally oriented head surface, as recited in claim 4 (and as discussed above).

Additionally, the Examiner is rejecting claim 4 over figure 5; whereas, the base claim 1 is rejected over figure 1. This is an improper rejection since the Examiner is apparently mixing and matching different embodiments of Palsson to show the features of the claimed invention. Since claim 4 is rejected under 35 U.S.C. §102(b), it would only be proper to reject this claim using the same embodiment as used in the rejection of claim 1.

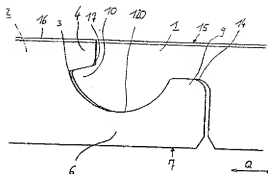
Also, as to claim 6, it is clear that figure 5 of Palsson does not show an underside of the tongue having a radius of curvature that is constant over at least 90 degrees. Additionally, the Examiner is rejecting claim 6 over figure 1; whereas, the base claim 5 is rejected over figure 5. This is an improper rejection since the Examiner is apparently mixing and matching different embodiments of Palsson to show the features of the claimed invention. Since claim 6 is rejected under 35 U.S.C. §102(b), it would be only proper to reject this claim using the same embodiment as used in the rejection of claim 5. This same argument is also true for claim 7, and which is argued herein. Accordingly, Applicants respectfully request that the rejection over claims 1, 3-7 and 9 be withdrawn.

#### ***Added Claims***

Claims 12 and 13 are added for the Examiner's consideration. Claims 12 and 13 depend from respective independent claims 1 and 5. Claims 12 and 13, in combination with their respective independent claims, recite, in pertinent part,

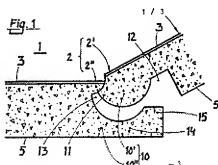
... wherein walls forming at least a portion of the tongue and groove (recess), respectively, are sized and shape to form a dust pocket.

These features are clearly shown in FIG. 1, which is a non-limiting embodiment of the present invention. FIG. 1 is reproduced below.



However, these features are not shown by Palsson.

In contrast, it is clear from a reading of Palsson that the flooring panel of FIG. 1 does not include any dust chambers. Simply, there is no mention, whatsoever, of dust chambers with relation to FIG. 1. In fact, from a fair reading of Palsson, it appears that the tongue 11 (on the male joining member) 10' and the groove 13 (on the female joining member) 10'' of FIG. 1 would mate together, with no resulting chamber, whatsoever. This is shown in FIG. 1 of Palsson reproduced below.



**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,  
Thomas GRAFENAUER

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', written over a horizontal dashed line.

Andrew M. Calderon  
Reg. No. 38,093

GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191